

REMARKS

Claims 21-40 and 42 are pending in the application.

Claims 21-40 have been rejected.

Claim 42 has been objected to.

Claims 21, 24 and 34 have been amended, as set forth herein.

I. **REJECTION UNDER 35 U.S.C. § 112**

Claims 21, 24 and 34 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The rejection is respectfully traversed.¹

To further prosecution, Applicant has amended Claims 21, 24 and 34.

Claims 21 and 24 now recite switching the first mobile device from being a primary mobile unit to a secondary mobile unit such that the first mobile device transmits the first position information to at least one of the second mobile device and a third mobile device for relaying to the central monitoring system, and wherein when the first mobile device is a secondary mobile unit the first mobile device communicates directly only with the at least one of the second mobile device and the third mobile device.

¹ The Office Action response to Applicant's prior Remarks appears to focus on paragraphs 0034, 0039 and 0044 of the published patent application. See, Office Action, pp 2-3. In Applicant's prior Remarks, Applicant pointed to paragraphs 0034, 0039 and 0044 of the as-filed application. Therefore, it appears that the Examiner may have been reviewing portions of the application different than those cited by the Applicant in its prior Remarks. Applicant notes that the paragraph numbering in the as-filed application is different from the paragraph numbering in the published patent application. Thus, Applicant respectfully submits that paragraphs 0034, 0039 and 0044 of the as-filed application -- corresponding to paragraphs 0040, 0045, 0050 of the published application, support the claim language. However, Applicant has modified the claims in an additional effort to ensure compliance with Section 112.

Claim 34 now recites after switching from a primary mobile unit to a secondary mobile unit, the first mobile device transmitting the first position information to at least one of the second mobile device and a third mobile device for relaying to the central monitoring system, and wherein when the first mobile device is a secondary mobile unit the first mobile device communicates directly only with the at least one of the second mobile device and the third mobile device.

This claim language is supported by Applicant's specification, including page 17, paragraph 0039 (paragraph 0045 of the published patent application), which is set forth in its entirety as follows:

[0039] Also, it should be noted that a mobile unit may be switched between being a primary mobile unit or a secondary mobile unit. A mobile unit is a primary mobile unit if it communicates with primary base station 110. A mobile unit is a secondary mobile unit if it communicates only with another mobile unit (primary or secondary) that, in turn, relays location information to primary base station 110.

Accordingly, the Applicant respectfully requests withdrawal of the § 112 rejection of Claims 21, 24 and 34.

II. REJECTION UNDER 35 U.S.C. § 102

Claims 21-40 were rejected under 35 U.S.C. § 102(e) as being anticipated by Menard (US Patent Application Publication No. 2002/0169539). The rejection is respectfully traversed.

A cited prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP § 2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed.

Cir. 1990). Anticipation is only shown where each and every limitation of the claimed invention is found in a single cited prior art reference. MPEP § 2131; *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

Claim 21 recites that “first position information” associated with a first mobile device is transmitted from the first mobile device to a central monitoring system and that “second position information” associated with a second mobile device is relayed from the first mobile device to the central monitoring system.

Claim 21 also recites switching the first mobile device from being a primary mobile unit to a secondary mobile unit, such that the first mobile device transmits the first position information to at least one of the second mobile device and a third mobile device for relaying to the central monitoring system. The first mobile device is a secondary mobile unit when the first mobile device communicates directly only with the at least one of the second mobile device and the third mobile device.

The Menard reference describes four different devices that “relay” position information. Three of these devices (pager 150, laptop 155, and device 300) are shown in Figure 3 of Menard. These devices receive position information (of the first device 100), determine if they are authorized to view the position information, and forward the position information towards a monitor center 400. (Menard, paragraph 0051). The device 300 may also be capable of determining directional information. (Menard, paragraph 0082). The fourth device described in Menard as relaying position information is the monitor center 400, which can relay information between tags 100E-100F and the

device 300 as shown in Figure 13. (Menard, paragraph 0139).

Menard also describes devices that can determine and transmit position information. However, none of these devices operate as recited in Claim 21. In the embodiment shown in Figure 3 of Menard, the only device capable of determining and transmitting its position information is the device 100. The device 100 does not relay second information from a second mobile device. (Menard, Figure 3; paragraph 0051). Thus, this embodiment (Figure 3) of Menard fails to disclose relaying, from the first mobile device (device 100) to the central monitoring system (monitor center 400), second position information of a second mobile device (?).²

In the embodiment shown in Figure 13 of Menard, the tags 100E-100F may transmit their position information to a device 300 or a tower 415, but the tags 100E-100F do not appear to receive and relay position information of other devices. (Menard, Figure 13, paragraphs 0084, 0086-0088). Thus, if interpreted as the “first mobile device” element in Applicant’s claim, the tags 100E-100F do not meet the claim limitation reciting: relaying from the first mobile device second position information of a second mobile device. In the event the Office Action interprets the second device 300 as the “first mobile device” element in Applicant’s claim, this device 300 (though capable of determining relative distance and direction between the second device 300 and tags 100E-100F) does not transmit its position information to the monitoring center 400A. (Menard, paragraph 0088). Moreover, there is no disclosure or suggestion that this device 300 switches into another mode such

² The pager 150 and the laptop 155 are described as simply relaying information, apparently in a single mode of operation. And, the monitor center 400 presumably is relied upon as anticipating the “central monitoring system” recited in Claim 21 and cannot therefore be used to anticipate the “first mobile device” recited in Claim 21.

that the device 300 transmits its first position information (which is not transmitted anyway) to a second mobile device or a third mobile device. See, Claim 21. This second device 300 does not transmit its first position information to the tags 100E-100F (or other mobile device) nor does it only communicate with the second or third mobile devices – as recited in the Applicant's claim.

Therefore, nothing in Menard describes a first mobile device that switches from being a primary mobile unit to being a secondary mobile unit, such that first mobile device transmits the first position information to at least one of the second mobile device and a third mobile device for relaying to the central monitoring system (and wherein the first mobile device is a secondary mobile unit when the first mobile device communicates directly only with the at least one of the second mobile device and the third mobile device).

The Office Action further cites paragraphs 0106-0107 and Figure 13 of Menard. However, these paragraphs and Figure 13 fail to describe or address switching the mobile device from being a primary mobile unit to being a secondary mobile unit to transmit its own position information to another mobile device for relaying to a central monitoring system, wherein the first mobile device is a secondary mobile unit when the first mobile device communicates directly only with the at least one of the second mobile device and the third mobile device, as described in Applicant's specification. Menard simply describes how the tags 100E-100F can communicate with the device 300 directly using a "short range module" or indirectly (through a tower 415) using a "long range network module." In other words, Menard only recites that a tag 100E-100F may communicate with a local device 300 or the tower 415 using short-range or long-range transmissions. (Menard,

paragraph 0084). Nothing therein indicates that any of the tags 100E-100F (or second device 300) may switch from being a primary mobile unit (where the tag transmits its own position information to the monitor center and relays position information from another device directly to the monitor center) to a secondary mobile unit (where the tag communicates only directly with another mobile device to transmit its own position information to the other mobile device for relaying).

For these reasons, Menard fails to disclose each and every element recited in independent Claim 21 (and its dependent claims). For similar reasons, Menard fails to anticipate Claims 24 and 34 (and their dependent claims).

Accordingly, the Applicant respectfully requests the Examiner withdraw the § 102(e) rejection of Claims 21-40.

III. CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

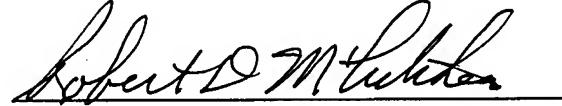
If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at rmccutcheon@munckbutrus.com.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Munck Butrus Deposit Account No. 50-0208.

Respectfully submitted,

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